

May 21, 2006

Federal Trade Commission/Office of the Secretary, Room H-135 (Annex W)  
Re: Business Opportunity Rule, R511993  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

**RE: Business Opportunity Rule, R511993**

Dear Sir/Madam,

I am writing in response to the proposed New Business Opportunity Rule R511993. This rule will be a significant impediment and burden to the network marketing industry and the free market trade in our largely decentralized economic system.

The proposed rule would require a seven-day waiting period to enroll new business owners. In essence, one would have to sell a person twice on the same business. This would create a significant administrative burden to any company and distributor who would be **required** to document and follow-up on the process. Besides, many people sign up for the purpose of purchasing top quality products, immediately, even though they are not interested in the business development side. This rule would be detrimental to then business owner's incentive, and to customer motivation.

The rule requires that Law validate any earnings claim statement made by the distributor or company to a prospect, whether written or oral, general or specific." Additionally, the distributor would be required to provide written substantiation of any earnings claim made upon request. I support the disclosure of an average earnings income statement because it is good business practices to establish realistic expectations. However, I oppose being forced to provide written substantiation because it is an excessive burden considering the investment of money to enter into the business is nominal.

The rule also calls for the release of any information regarding prior litigation and civil or criminal legal actions involving misrepresentation, or unfair or deceptive practices, even if you were found **innocent**. In our lawsuit-happy culture, anyone can be sued for **anything** almost with impunity. Regardless of the outcome, you would have to disclose it and explain it to a new business owner, which is patently unfair. I support the disclosure of previous litigation of companies, executives, affiliated companies and the like involving fraud and misrepresentation *only if the party is found guilty*. If the defendant is found not guilty or if the opposing parties agreed to settle without admission of guilt, then it should not be necessary to disclose this information because it would be a hindrance to developing a new business relationship. If the parties agreed to settle without admission of guilt, there usually is some public document available, particularly if it involves a government agency and further disclosure therefore would be unnecessary.

Lastly, the rule *requires* the disclosure of a minimum of 10 purchasers closest to you. While it is a good practice to provide references/testimonials of satisfied customers, this is a burden for small businesses and, as a requirement, it is a violation of personal confidentiality particularly if you have to choose within your geographic area. Unfortunately, requiring the release of this information can threaten the business relationship of the references who may be involved in other companies or

businesses. In addition, it subjects these references to cross marketing by competitors. I am recommending that contact information for purchasers be available upon request, that their availability be published on company materials, and that due to Internet-Marketing, they not be limited to geographic proximity.

The network marketing industry is one of the few remaining opportunities for people to earn additional income or to create a new career. Once scoffed at by investors, many network-marketing companies are publicly traded on Wall Street including Herbalife, Nu Skin, Pre-Paid Legal Services, USANA and others. Blue-chip corporations including Citigroup, MCI and IBM are using network marketing as a way of distribution of their products. Top business management leaders and *New York Times* best-selling authors Robert Kiyosaki, Paul Zane Pilzer, and Steven Covey have endorsed network marketing. Warren Buffet, the most successful and known businessperson in modern history owns the network marketing company, Pampered Chef.

The industry is also growing in popularity and contributes substantially to the US economy. This growth should be encouraged. There are 13 million Americans involved in the network marketing industry today. Lastly, the network marketing industry contributes to our growing economy. Sales of products and services through network marketing are estimated at more than \$29 billion.

I have been involved in the network marketing industry for more than 19 years. I have met some of the finest people and have been introduced to some of the best products on earth. For the first two years, I was involved because I wanted the benefit the products. Later, I decided to get involved in the business on a part time basis and then after a couple of years, I went full time and started a new career. This home based business helped me significantly, and allowed me to spend more time with my family while earning additional income.

I understand and value the role of the FTC mission “to stand up for America’s free market process and for its consumers, who benefit from competitive markets in which truthful information flows.” However, I believe this proposed new rule exceeds what is necessary and needs significant modification - possibly total elimination. We live in a free market economy where people have the **responsibility** of making informed decisions based on best information. A better approach would be to provide consumers with objective criteria when analyzing a business opportunity and let an informed market proceed. I am in support of the disclosures that should be made during the sales process without the requirement of a seven-day waiting period, only if modified as I’ve suggested above.

Thank you, in advance, for reviewing and posting my comments.

Best regards,

James Clendenin